

STATE PERSONNEL BOARD CALENDAR



MARCH 21, 2007

SACRAMENTO

State of California

Memorandum

DATE: March 9, 2007

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD – Executive Office

SUBJECT: Notice and Agenda for the **March 21, 2007**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on March 21, 2007, at offices of the State Personnel Board, located at 801 Capitol Mall, Room 150, Sacramento, California, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the March 21, 2007, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 52, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.

A handwritten signature in black ink, appearing to read 'Karen Yu', with a stylized flourish at the end.

Karen Yu
Secretariat's Office

Attachment



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

MID MONTH BOARD MEETING – MARCH 21, 2007

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

MID MONTH BOARD MEETING AGENDA³

MARCH 21, 2007
9:00 a.m. – 10:30 a.m.
(or upon completion of business)

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND ARE SUBJECT TO CHANGE

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:30 a.m.)

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**
- 3. REPORT OF THE CHIEF COUNSEL – Elise Rose**
- 4. NEW BUSINESS**

Items may be raised by Board Members for scheduling and discussion for future meetings.

- 5. REPORT ON LEGISLATION – Sherry Evans**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(9:30 a.m. – 10:00 a.m.)

- 6. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

³ The Agenda for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

7. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

8. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California

United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.

Case No. C01-1351 TEH

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:00 a.m. – Onwards)

11. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF APRIL 3, 2007, IN SACRAMENTO, CALIFORNIA

BOARD ACTIONS:

12. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF FEBRUARY 20, 2007

13. **EVIDENTIARY CASES - (See Case Listings on Pages 7-14)**
14. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Agenda on Pages 22-23)**
15. **NON-EVIDENTIARY CASES - (See Case Listings on Pages 15-18)**
16. **NON-HEARING CALENDAR**

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

- A. **BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.**

NONE

- B. **ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

NONE

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and the State Personnel Board approves it, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

ASSISTANT DIRECTOR, HEALTH CARE REFORM EVALUATION (CEA I)

The California Managed Risk Medical Insurance Board (MRMIB) proposes to reallocate an existing CEA II, Deputy Director, Benefits and Quality Monitoring Division, to the above position. The Assistant Director, Health Care Reform Evaluation, will be responsible for the development of statewide policies, goals, and long-range objectives for Health Care Reform.

CHIEF, UTILIZATION MANAGEMENT DIVISION (UMD)

The Department of Health Services proposes to allocate the above position to the CEA Category. The Chief, UMD is the principal policy maker and advisor to the Deputy Director and Assistant Deputy Director for MCS regarding issues related to methods used to manage and control costs for medical and pharmaceutical benefits for Medi-Cal beneficiaries, as they relate to utilization review.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

CHIEF, INTERNAL AUDITS

The California Lottery's request to allocate the above position to the CEA Category has been disapproved effective February 16, 2007.

CHIEF, THIRD-PARTY LIABILITY AND RECOVERY BRANCH

The Department of Health Services' request to allocate the above position to the CEA Category has been approved effective February 23, 2007.

19. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

20. WRITTEN STAFF REPORT FOR BOARD INFORMATION

21. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

22. BOARD ACTIONS ON SUBMITTED ITEMS – (See Agenda on Pages 19–21)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on this agenda under Evidentiary Cases.

A D J O U R N M E N T

13. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) **CASE NO. 06-1912**

Appeal from dismissal

Classification: Senior Youth Correctional Counselor

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission February 20, 2007.

(2) **CASE NO. 05-0053A**

Appeal from dismissal

Classification: Park Maintenance Assistant

Department: Department of Parks and Recreation

Proposed decision rejected October 10, 2006.

Transcript prepared.

Pending oral argument February 6-7, 2007, Los Angeles.

Oral argument heard February 6, 2007.

Case ready for decision by FULL Board.

(3) **CASE NO. 05-2211A**

Appeal from dismissal

Classification: Senior Tax Compliance Representative

Department: Employment Development Department

Proposed decision rejected September 20, 2006.

Transcript prepared.

Pending oral argument February 6-7, 2007, Los Angeles.

Oral argument continued

Pending oral argument March 6-7, 2007, Sacramento.

Oral argument rescheduled to March 2, 2007, Sacramento.

Oral argument heard March 2, 2007.

Case ready for decision by FULL Board.

(4) CASE NO. 06-1433

Appeal from official reprimand

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

(5) CASE NO. 05-1567A

Appeal from dismissal

Classification: Housing Finance Specialist (General)

Department: California Housing Finance Agency

Proposed decision rejected July 11, 2006.

Transcript prepared.

Pending oral argument October 31-November 1, 2006, San Diego.

Oral argument continued.

Pending oral argument December 5, 2006, San Francisco.

Oral argument heard December 5, 2006.

Case ready for decision by FULL Board.

(6) CASE NO. 06-1310

Appeal from 14 working days suspension

Classification: Regional Administrator

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission

December 5, 2006.

(7) PSC NO. 06-02

Appeal from Executive Officer's June 28, 2006 approval of the Department of Corrections and Rehabilitation Personal Services Contracts for Psychological Services.

Department: Department of Corrections and Rehabilitation

Employee Organization: AFSCME, Local 2620, AFL-CIO

Oral argument heard January 9, 2007.

Case ready for decision by FULL Board.

B. CASES PENDING

ORAL ARGUMENTS

NONE

C. CHIEF COUNSEL RESOLUTIONS

(1) CASE NO. 05-3741

Appeal from dismissal

Classification: Medical Technical Assistant, CF

Department: Department of Corrections and Rehabilitation
Request for Order to Show Cause against Department of
Corrections and Rehabilitation

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

(1) CASE NO. 06-3641

Appeal from five percent reduction in salary for 12 months

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

(2) CASE NO. 06-0288E

Appeal from whistleblower/retaliation complaint

Classification: Chief Physician and Surgeon

Department: Department of Corrections and Rehabilitation

(3) CASE NO. 05-3478

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

- (4) **CASE NO. 05-1803**
Appeal from dismissal
Classification: Officer
Department: Department of the California Highway Patrol
- (5) **CASE NO. 06-2166**
CASE NO. 06-2307
Appeals from five percent reduction in salary for 12 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (6) **CASE NO. 05-3316**
Appeal from dismissal
Classification: Correctional Lieutenant
Department: Department of Corrections and Rehabilitation
- (7) **CASE NO. 05-4091**
Appeal from medical termination
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
- (8) **CASE NO. 06-2052**
Appeal from five percent reduction in salary for 12 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (9) **CASE NO. 06-2914**
Appeal from constructive medical termination
Classification: Heavy Equipment Mechanic
Department: Department of Transportation
- (10) **CASE NO. 06-0749**
Appeal from rejection during probation
Classification: Environmental Planner (Natural Sciences)
Department: Department of Transportation
- (11) **CASE NO. 06-3169**
CASE NO. 06-3227
CASE NO. 06-3255
CASE NO. 06-3280
CASE NO. 06-3392
CASE NO. 06-3410
Appeals from official reprimand
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

(12) CASE NO. 06-2205

Appeal from 24 work days' suspension

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

(13) CASE NO. 02-3688RP

Appeal from constructive medical termination

Classification: Youth Correctional Officer

Department: Department of Corrections and Rehabilitation

(14) CASE NO. 05-0557R

Appeal from one year suspension and demotion

Classification: Professor

Department: California State University, Stanislaus

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

(1) CASE NO. 05-2585P

Appeal from 10 percent reduction in salary for 13 pay periods

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation.

(2) CASE NO. 06-0826P

Appeal from two days' suspension

Classification: Patrol Officer

Department: California State University, San Bernardino

- (3) **CASE NO. 04-0750EP**
Appeal from discrimination and retaliation complaint
Classification: Office Assistant (Typing)
Department: Department of Corrections and Rehabilitation
- (4) **CASE NO. 05-0733P**
Appeal from dismissal
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

- (1) **CASE NO. 05-1007EA**
Appeal from denial of discrimination complaint
Classification: Outside contractor
Department: Department of Transportation

Proposed decision rejected December 19, 2006.
Pending oral argument April 3-4, 2007, Sacramento.
- (2) **CASE NO. 06-0760A**
Appeal from rejection during probation
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.
Transcript prepared.
Pending oral argument February 6-7, 2007, Los Angeles.
Oral argument continued.
Pending oral argument May 1-2, 2007, Los Angeles.

March 21, 2007

- (3) **CASE NO. 06-0235A**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision rejected January 9, 2007.
Transcript prepared.
Pending oral argument May 1-2, 2007, Los Angeles.
- (4) **CASE NO. 06-3023A**
Appeal from ten percent reduction in salary for three months
Classification: Psychiatric Technician
Department: Department of Corrections and Rehabilitation

Proposed decision rejected March 2, 2007.
Pending transcript.
- (5) **CASE NO. 05-2888PA**
Appeal from dismissal
Classification: Staff Services Analyst (General)
Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.
Transcript prepared.
Pending oral argument March 2 2007, Sacramento.
Oral argument continued.
- (6) **CASE NO. 05-1285A**
Appeal from dismissal
Classification: Public Safety Dispatcher II
Department: Department of California Highway Patrol

Proposed decision rejected January 9, 2007.
Transcript prepared.
- (7) **CASE NO. 05-0929PA**
Appeal from rejection during probation
Classification: Health Program Manager I
Department: Department of Health Services

Petition for Rehearing granted February 20, 2007.
- (8) **CASE NO. 06-0188A**
Appeal from dismissal
Classification: Physician and Surgeon, CF
Department: Department of Corrections and Rehabilitation

Proposed decision rejected February 20, 2007.
Transcript prepared
Pending oral argument April 3-4, 2007, Sacramento.

- (9) **CASE NO. 05-1067A**
Appeal from dismissal
Classification: Investigator
Department: Department of Motor Vehicles

Proposed decision rejected January 9, 2007.
Transcript prepared.
Pending oral argument May 1-2, 2007, Los Angeles.
- (10) **CASE NO. 04-2919ERPA**
Appeal of discrimination and retaliation
Classification: Physician and Surgeon
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted September 20, 2006.
Transcript prepared.
Pending oral argument February 6-7, 2007, Los Angeles.
Oral argument continued.
Pending oral argument May 1-2, 2007, Los Angeles.
- (11) **CASE NO. 05-0927BA**
Appeal for back salary determination
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected December 5, 2006.
Transcript prepared.
Pending oral argument April 3-4, 2007, Sacramento.
- (12) **CASE NO. 05-4416PA**
Appeal from 10 percent reduction in salary for 13 pay periods
Classification: Medical Technical Assistant (Correctional Facility)
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted November 14, 2006.
Transcript prepared.
Pending oral argument April 3-4, 2007, Sacramento.

15. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

- **CASE NO. 05-3372**
Classification: Corrections Officer
Department: Department of Corrections and Rehabilitation

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

- (1) **CASE NO. 05-3675**
Classification: Hospital Police Officer
Department: California Department of Mental Health
Issue: Suitability; questionable sexual acts, drug usage, and traffic violations.
- (2) **CASE NO. 05-2896**
Classification: Motor Vehicle Field Representative
Department: California Department of Motor Vehicles
Issue: Suitability; misdemeanor conviction and current probationary status.
- (3) **CASE NO. 05-3679**
Classification: California Highway Patrol
Department: CHP Cadet
Issue: Suitability, omitted pertinent information.
- (4) **CASE NO. 05-1545**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; failed to disclose pertinent information.
- (5) **CASE NO. 05-1399**
Classification: California Highway Patrol
Department: CHP Cadet
Issue: Suitability, omitted pertinent information and negative employment record.

- (6) **CASE NO. 05-1849**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information, furnished inaccurate information, had a negative employment record, negative law enforcement contacts, arrest/conviction record and failure to comply with legal obligations.
- (7) **CASE NO. 05-4096**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; furnished inaccurate information.
- (8) **CASE NO. 05-4154**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; firearms prohibition.
- (9) **CASE NO. 05-2626**
Classification: Motor Vehicle Field Representative
Department: California Department of Motor Vehicles
Issue: Suitability; a prior conviction for Welfare Fraud.
- (10) **CASE NO. 05-3652**
Classification: Medical Technical Assistant
Department: Department of Corrections and Rehabilitation
Issue: Suitability; fraud.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

- (1) **CASE NO. 05-3852**
Classification: Correctional Officer
Department: California Department of Corrections and Rehabilitation
Issue: The appellant does not meet the minimum psychological qualification standards for State peace officer employment under G.C. 1031 (f) linked to a pattern of poor judgment, impulsive behavior and problems taking responsibility for the negative aspects of his social history and alcohol consumption.

- (2) **CASE NO. 05-4395**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: The appellant was medically disqualified because he did not meet the standards needed to perform the duties of the job.
- (3) **CASE NO. 05-3620**
Classification: Highway Patrol Cadet
Department: California Highway Patrol
Issue: The appellant shows signs of excessive alcohol consumption, personality traits that would significantly interfere with the performance standards for State peace officer employment under G.C. 1031.
- (4) **CASE NO. 05-3524**
Classification: Correctional Officer
Department: California Department of Correction & Rehabilitation
Issue: The appellant does not meet the general requirements deemed essential for a Correctional Officer, CDCR, due to a history of poor judgment and problems with anger management.
- (5) **CASE NO. 05-3694**
Classification: Fire Captain
Department: California Department of Correction and Rehabilitation
Issue: The appellant shows signs of poor judgment and alcohol abuse, characteristics that would significantly interfere with the performance standards for State peace officer employment under G.C. 1031.
- **CASE NO. 06-2606**
Classification: Corrections Officer
Department: California Department of Corrections and Rehabilitation
- **CASE NO. 06-4505N**
Classification: Investigator I, ABC
Department: Alcoholic Beverage Control
- **CASE NO. 06-3077**
Classification: Corrections Officer
Department: Department of Corrections and Rehabilitation

C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

- (1) **CASE NO. 05-1173**
Classification: Personnel Supervisor II
Department: California Department of Corrections & Rehabilitation
Issue: Whether appellant was properly withheld for not meeting the minimum qualifications.

D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

- **CASE NO. 05-4169**
Classification: Caltrans Highway Maintenance Worker
Department: State Personnel Board

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

NONE

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. PSC NO. 06-03

Appeal from Executive Officer Decision Disapproving Personal Services Contract for Unarmed Security Guard Services. Department of the California Highway Patrol. Service Employees International Union, Local 1000 (CSEA). (Oral argument held October 10, 2006.)

7. CASE NO. 05-0947A

Appeal from dismissal. Housing Finance Specialist (General). California Housing Finance Agency. (Oral argument held December 5, 2006.)

8. CASE NO. 06-1814

Appeal from official letter of reprimand. Correctional Officer. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

9. CASE NO. 06-1310

Appeal from 14 working days' suspension. Regional Administrator. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

10. CASE NO. 05-1975

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

11. CASE NO. 05-1466

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

12. CASE NO. 05-1977

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

13. CASE NO. 05-1029

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

14. CASE NO. 05-2290

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

15. CASE NO. 05-1169

Correctional Officer. Department of Corrections and Rehabilitation. Suitability; whether appellant's name was properly withheld for one DUI conviction. (Presented to Board December 5, 2006.)

16. CASE NO. 05-1681

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

17. CASE NO. 05-1170

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

**18. HEARING – PUBLIC HEARING ON PROPOSED COST SAVINGS
REGULATIONS UNDER GOVERNMENT CODE SECTION 19130, SUBDIVISION (A)**

(Hearing held January 9, 2007.)

19. PSC #06-02

Appeal of AFSCME from Executive Officer Decision Approving Department of Corrections and Rehabilitation. Personal Services Contracts for Psychological Services.

(Oral argument held January 9, 2007.)

20. CASE NO. 05-0053A

Appeal from dismissal. Park Maintenance Assistant. Department of Parks and Recreation.

(Oral argument held February 5-6, 2007.)

22. CASE NO. 06-1912

Appeal from dismissal. Senior Correctional Counselor. Department of Corrections and Rehabilitation. (Presented to the Board

February 20, 2007.)

23. CASE NO. 05-2211A

Appeal from dismissal. Senior Tax Compliance Representative. Employment Development Department. (Oral argument held March 2, 2007.)

24. PSC #06-05

Appeal of the California Highway Patrol from the Executive Officer's September 28, 2006 Disapproval of a Contract for Custodial Services between the California Highway Patrol and Moran Janitorial Services. (Oral argument held March 2, 2007.)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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(Cal. 03/21/07)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding any bills that you may have an interest in. I can be reached at (916) 653-0453.

A handwritten signature in cursive script that reads 'Sherry A. Evans'.

Sherry Evans
Director of Legislation

Attachment

**STATE PERSONNEL BOARD
LEGISLATIVE TRACKING
REPORT
2007-08 SESSION**

Status as of March 8, 2007



BILL/ AUTHOR	BOARD POSITION	SUBJECT	STATUS OF BILL
AB 67 (Dymally)	SUPPORT	AB 67 amends the provisions contained in the Dymally-Alatorre Bilingual Services Act (Act) that require state agencies to conduct a biennial language survey and implementation plan and employ qualified bilingual staff when a significant language need is identified. The amendments proposed by this Bill standardize and define language in the Act, clarify the State Personnel Board's (SPB's) responsibility to establish bilingual fluency standards, and expand the SPB's ability to grant exemptions to the language survey and implementation plan.	02/01/2007-Referred to Com. on P.E.,R. & S.S. 02/01/2007-A P.E.,R. & S.S.
AB 147 (Wolk)		Intent Language. Spot Bill.	01/18/2007-From printer. May be heard in committee February 17. 01/17/2007-A PRINT
AB 174 (Price)		This bill would expand the remedies available to individuals who file discrimination complaints with the State Personnel Board by authorizing the State Personnel Board to award reasonable attorney's fees and costs.	02/13/2007-Referred to Com. on JUD. 02/13/2007-A JUD. 03/27/07 8 a.m. - Room 4202 ASM JUDICIARY
AB 219 (Jeffries)		Would provide that if a recipient of a disability retirement allowance who is over the minimum age for voluntary retirement for service applicable to members of his or her class, and who has been receiving a retirement allowance for less than 36 months, refuses to submit to a medical examination, the pension portions of his or her allowance may be discontinued until the withdrawal of the refusal. This bill contains other related provisions and other existing laws.	02/09/2007-Referred to Com. on P.E.,R. & S.S. 02/09/2007-A P.E.,R. & S.S.
AB 295 (Lieu)		Would require specified state agencies to use additional separate collection categories and tabulations for other major Asian and Pacific Islander groups, including Bangladeshi, Fijian, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, and Tongan. This bill would also require that these specified state agencies update their data collection categories to match those used by the United States Census. This bill would further require that state agencies that directly or by contract collect demographic data, make their demographic reports available to the public, to the extent that disclosure does not violate confidentiality.	02/26/2007-Referred to Com. on B. & P. 02/26/2007-A B. & P.
AB 309 (Tran)		Would specify that members appointed to specified state boards and commissions shall receive no salary for the 2007-08, 2008-09, and 2009-10 fiscal years, except that they may receive a per diem payment set pursuant to these provisions during that time.	02/26/2007-Referred to Com. on B. & P. 02/26/2007-A B. & P.

<u>AB 385</u> (<u>Ruskin</u>)		Would instead require the Department of Personnel Administration and the exclusive representative of State Bargaining Unit 10 to jointly survey annually the salaries of comparable occupations in other public agencies, as specified. On or before January 10 of each year. The bill would then require the department to submit a report to the Legislature containing the survey's findings, and would declare the policy of the state to consider comparable salaries prior to making salary recommendations. This bill contains other existing laws.	02/26/2007-Referred to Com. on P.E.,R. & S.S. 02/26/2007-A P.E.,R. & S.S.
<u>AB 933</u> (<u>Jeffries</u>)		Would revise these provisions. The bill would also delete obsolete statutory provisions relating to the Governor, Members of the Legislature, and other statewide elected officers.	02/23/2007-From printer. May be heard in committee March 25. 02/22/2007-A PRINT
<u>AB 1708</u> (Committee on Labor and Employment)		Would require the Department of Fair Employment and Housing to establish a targeted enforcement and education program to address issues of age discrimination in employment. The bill would require the department to report to the Governor and the Legislature on or before December 31 each year regarding the program's activities.	03/01/2007-From printer. May be heard in committee March 31. 02/28/2007-A PRINT
<u>SB 26</u> (<u>Simitian</u>)		This bill would require that demographic data collection by race be structured in a manner that allows the surveyed individual to select more than one race. A single category labeled "multi-racial" would be prohibited.	01/18/2007-To Coms. on G.O. and JUD. 01/18/2007-S G.O.
<u>SB 213</u> (<u>Ashburn</u>)		The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. That law establishes retirement formulas, known as the Second Tier, modified First Tier, and First Tier, that are applicable to specified members of the Public Employees' Retirement System. Under that law, a member who elects to be subject to Second Tier benefits shall be paid his or her accumulated contributions plus interest, subject to specified conditions. Under that law, effective January 1, 2000, a member who received service credit subject to Second Tier benefits may elect to become subject to First Tier benefits and contribution rates. That law requires a member who elects to become subject to First Tier benefits to deposit accumulated contributions the member withdrew while he or she was subject to Second Tier benefits, plus interest, as specified. This bill would make technical, and nonsubstantive changes to these provisions.	02/22/2007-To Com. on RLS. 02/22/2007-S RLS.
<u>SB 721</u> (<u>Ashburn</u>)		Existing law defines a state agency as every state office, officer, department, division, bureau, board, and commission. This bill contains other existing laws.	02/26/2007-Read first time. 02/23/2007-S PRINT

SB 836 (Kuehl)		Would include "familial status" as an additional basis upon which the right to seek, obtain, and hold employment cannot be denied.	02/26/2007-Read first time. 02/23/2007-S PRINT
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STATE PERSONNEL BOARD

NON-HEARING CALENDAR

BOARD DATE: MARCH 21, 2007

(Cal. 03/21/07)

MEMO TO : STATE PERSONNEL BOARD

FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division

SUBJECT : Non-Hearing Calendar Items for Board Action

NONE PRESENTED

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(Cal. 03/21/07)

MEMO TO : STATE PERSONNEL BOARD

FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division

SUBJECT : Staff Calendar Items for Board Information

NONE PRESENTED